

STATUS OF CLAIMS

Claims 1 – 10 are pending.

Claims 8 and 9 stand allowed.

Claims 1, 2, 7 and 10 stand rejected.

Claims 3 – 6 stand objected to.

Claim 2 has been cancelled herein, without prejudice or disclaimer.

Claims 1, 3 and 7 have been amended herein.

New Claims 11 – 14 have been added herein.

REMARKS

Applicant gratefully acknowledges allowance of Claims 8 and 9 and the Examiner's indication of allowable subject matter in Claims 3 – 6. Accordingly, new claims 11 – 14, respectively, recite, in independent form, the subject matter of objected to Claims 3 – 6, as presented in the previous amendment filed on April 6, 2010. Rejected Claim 1 has been amended to incorporate features of Claim 2, which claim has been cancelled herein, without prejudice or disclaimer, solely for purposes of expediting allowance of the present application. Claim 3 has been amended consistent with the language of amended Claim 1.

Reconsideration of the present application in light of the following remarks is respectfully requested.

Information Disclosure Statement

The Examiner comments in the Final Office Action of July 9, 2010 ("the Final Office Action" hereafter) regarding non-disclosure of the existence of U.S. Patent

Application Ser. No. 10/553,049 (now U.S. Patent 7,563,404) by the Applicant's representative. Applicant's representative respectfully responds that the Examiner expressed his intention to issue a non-statutory obviousness-type double patenting rejection in the present application in view of the '404 patent in an Examiner-initiated telephone conversation with the Applicant's representative on or around June 25, 2010. Once the Applicant's representative was made aware that the Examiner considered the '404 patent to be material to the patentability of the present claims, Applicant immediately filed a supplemental information disclosure statement dated June 29, 2010 making the references in the '404 patent file wrapper of record in the present application. Since the Examiner was already aware of the '404 patent and had expressed his intention to issue the aforementioned double patenting rejection in view thereof, the '404 patent was not cited by the Applicant's representative in the supplemental information disclosure statement.

Claim Amendments

Claim 1 has been amended to recite "one or more steps of compression of said powders; and one or more thermal processing steps such that at least part of the powders is melted or made viscous." Support may be found throughout the specification, for example, at Page 10, lines 3 – 10 ("Of course, in the method according to the present invention, several compression steps and/or several thermal processing steps may take place. ... Also, the thermal processing may comprise several steps, only one or several of which cause the melting.") and Page 7, lines 14 – 17 ("It should be noted that the partial melting step is not necessarily distinct from the actual sintering

step. The partial melting step may be carried out simultaneously to the compression.”).

Claim 1 has been further amended to incorporate features of dependent Claim 2. No new matter has been added by these amendments.

Claim 3 has been amended consistent with the amendments to Claim 1 and recites “wherein at least one of the one or more thermal processing steps is such that only powders belonging to a specific area of the material are melted or made viscous.” Support may be found throughout the specification. A missing comma has been added after the number “1.” No new matter has been added by these amendments.

Claim 7 has been amended to correct a typographical error wherein the term “during” was inadvertently omitted. No new matter has been added by this amendment.

Double Patenting

Claims 1, 2 and 10 stand rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 – 2 and 4 of U.S. Patent 7,563,404. Without addressing the veracity of this rejection, Applicant submits a terminal disclaimer under 37 C.F.R. § 1.321(c) to overcome this double patenting rejection, solely for the purpose of expediting prosecution of the present application, and without prejudice or disclaimer. In view of the foregoing, reconsideration and removal of this non-statutory obviousness-type double patenting rejection of Claims 1, 2 and 10 is respectfully requested.

Claim Rejections – 35 U.S.C. § 102

Claims 1 and 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Stevens (U.S. Patent 5,431,127). Without addressing the veracity of the Examiner's rejection, Claim 1 has been amended to incorporate the features of dependent Claim 2, without prejudice or disclaimer, and solely for the purposes of expediting prosecution of the present application. Since Claim 2 has not been rejected as being anticipated by Stevens, amended Claim 1 is not anticipated by Stevens. Dependent Claim 7 depends from amended base Claim 1 and is, therefore, not anticipated by Stevens. Accordingly, reconsideration and removal of this 35 U.S.C. § 102(b) rejection of Claims 1 and 7 is respectfully requested.

New Claims

Responsive to the Examiner's indication of allowable subject matter in objected to Claim 3, new independent Claim 11 has been added to recite the features of base Claim 1 and objected to Claim 3, as presented in the previous amendment filed on April 6, 2010. No new matter has been added by new Claim 11.

Responsive to the Examiner's indication of allowable subject matter in objected to Claim 4, new independent Claim 12 has been added to recite the features of base Claim 1 and objected to Claim 4, as presented in the previous amendment filed on April 6, 2010. No new matter has been added by new Claim 12.

Responsive to the Examiner's indication of allowable subject matter in objected to Claim 5, new independent Claim 13 has been added to recite the features of base

Claim 1 and objected to Claim 5; as presented in the previous amendment filed on April 6, 2010. No new matter has been added by new Claim 13.

Responsive to the Examiner's indication of allowable subject matter in objected to Claim 6, new independent Claim 14 has been added to recite the features of base Claim 1 and objected to Claim 6, as presented in the previous amendment filed on April 6, 2010. No new matter has been added by new Claim 14.

In view of the foregoing, allowance of new Claims 11 – 14 is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

CONCLUSION

Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,



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